**REMARKS**

In the May 1, 2007 Office Action, the Examiner noted that claims 1-30 and 32-43 were pending in the application; noted that no Information Disclosure Statement had been filed; objected to the drawings; rejected claims 2-14 and 36-38 under the second paragraph of 35 USC § 112; rejected claims 1, 15-19, 25-30, 32-35 and 39-43 under 35 USC § 102(e); and rejected claims 2-14, 20-24 and 36-38 under 35 USC § 103(a). In rejecting the claims, U.S. Patent Nos. 6,931,451 B1 to Logan et al. and 7,171,174 B2 to Ellis et al. and U.S. Patent Application Publication No. 2006/0146787 A1 by Wijnands et al. (References A-C, respectively) were cited. Claims 1-30 and 32-43 remain in the case. The rejections are traversed below.

**Information Disclosure Statement**

In item 2 on page 2 of the Office Action, the Examiner noted that an Information Disclosure Statement was required to obtain consideration of references listed in the application. An Information Disclosure Statement will be filed shortly including the references listed in the application and other references.

**Objections to Drawings**

In item 3 on page 2 of the Office Action, the Examiner objected to the drawings because reference numeral 82 appeared twice in FIG. 4 and the Examiner did not see where reference numerals 72 (Fig. 3) and 88 (Fig. 4) were used in the text of the specification.

A replacement drawing of FIG. 4 is submitted herewith with one of the occurrences of "82" deleted and "YES" and "NO" added to conform to the description of FIG. 4 in paragraph [0027]. In addition, paragraph [0027] has been amended to refer to reference numerals 82 and 84 in a manner that conforms to FIG. 4 and a description of the block associated with reference numeral 72 has been added to paragraph [0026]. The Examiner's attention is directed to line 4 of paragraph [0028] where reference numeral 88 is used. Entry of these changes to the drawings and text of the specification and withdrawal of the objections is respectfully requested.

**Rejections under the Second Paragraph of 35 USC § 101**

In item 6, spanning pages 3 and 4 of the Office Action, claims 2-14 and 36-38 were rejected under the second paragraph of 35 USC § 112, because the word "duration" in claims 2, 36 and 38 were interpreted by the Examiner as having a different meaning than "duration" in claim 1. Claims 1, 2, 34, 36 and 38 have been amended to clarify the meaning of "duration" in these claims. Withdrawal of the rejection is respectfully requested.

**Prior Art Rejections**

In item 8 on pages 4-10 of the Office Action, claims 1, 15-19, 25-30, 32-35 and 39-43 were rejected under 35 USC § 102(e) as anticipated by Logan et al. In rejecting the independent claims 1, 34, 42 and 43, it was asserted that column 15, lines 8-45, of Logan et al. disclosed "determining duration of the audio signals based on said identifying" (e.g., claim 1, line 4). However, the cited portion of column 15 does not describe the operation recited on line 4. Described below is what happens after "identifying" in the cited portion of column 15.

> When an incoming snippet from the client recorder/player matches one of the items in the database 113, information describing the matching item is returned to the client side and stored as a record in the stored content guide seem (sic) at 115. The transmitted information includes data specifying the time duration between the beginning of the identified snippet and the beginning of the program item (e.g. song) from which the snippet was taken, the time duration between the beginning of the snippet and the end of the program item, as well as descriptive information about the program item (e.g., song title, performer, composer, album name, date performed, etc.). Using the information thus accumulated, the user of the player recorder can review listings of songs that are available in the local song storage unit 107, and play back any song or other program item listed as indicated at 121.

It is unclear from Logan et al. how the recorder/player determines songs that a user can play back. Logan et al. does not disclose how to determine "duration of the audio signals based on said identifying" (claims 1 and 43, line 4, and claim 42, line 5), or as recited in claim 34, "duration of the audio signals based on identification thereof" (claim 34, line 6). Thus, this feature is not anticipated by Logan et al.

Furthermore, the Office Action asserted that Logan et al. disclosed "saving a recording of the audio signals based on the user preference criteria and the duration" (e.g., claim 1, last 2 lines) at column 19, lines 13-57. However, this portion of column 19 in Logan et al. states the following regarding saving of audio signals:

> This system will allow a listener to quickly surf multiple radio channels and "pull down" and store the greatest number of desired songs in the shortest time ... Each searching tuner would have a buffer available to it (which could be as short as the distance from the beginning of a song to the fingerprint plus processing time) to capture the audio before reaching a given song's fingerprint. Once the fingerprint was found and identified, the song would be rated on a "desirability" scale. The audio before the buffer before the fingerprint would be combined with the rest of the song. The next step would be dependent on which playing option was in effect:
>
> 1. Under this option, the song would be saved in the jukebox. If there is not enough unused memory to save the song, the system would compare the new song's rating to that of the song in the jukebox that had the lowest rating. If the new song has a higher rating, it would replace the existing song having the lowest

rating. The process would continue over time over multiple tuners, gradually lifting the average rating of songs in memory.

2. Under this option, the song would be saved in a short term buffer and queued up for playback.

3. Under this option (which uses minimum memory), the playing tuner would switch over to the new song as soon as it was being broadcast. There would not necessarily be storage of the whole song.

The first paragraph quoted above from Logan et al. does not describe how "the rest of the song" is determined and none of the options which follow clarify the process. The conventional way of determining the end of a song reproduced via a medium that does not indicate the length of the song (as a compact disc does), such as broadcast music or music recorded on a tape or vinyl record, is based on the sound energy remaining at a low level for a predetermined period of time. There is nothing in the cited portion of column 19 of Logan et al. to suggest that any other technique is used, in particular, there is no teaching or suggestion of "saving a recording of the audio signals (in said at least one storage unit) based on ... the first duration" (claims 1, 34, 42 and 43, last 2 lines, parenthetical only in claim 34), where the "first duration" is, as noted above, determined for "the audio signals based on said identifying" (e.g., claim 1, line 4). For the above reasons, it is submitted that Logan et al. does not anticipate claims 1, 15-19, 25-30, 32-35 and 39-43 and furthermore, it is submitted that it would not clearly be obvious to one of ordinary skill to perform the last two operations recited in claim 1 or the similarly worded operations in the other independent claims.

Furthermore, column 19, lines 52-58 of Logan et al. were cited as disclosing what was previously recited in claim 28. Claim 28 has been amended to clarify that "notifying ... a user of currently broadcast audio signals matching at least one of the user preference criteria and the listening habit information" is done "without changing what is currently output" (claim 28, line 2). This is consistent with one of the options described in paragraph [0031] of the specification. While switching from one program to another as taught by Logan et al. could be considered notifying a user that the other program matches user preference criteria or listening habits, that was not the intended meaning of claim 28. No suggestions of "notifying a user without changing what is currently output" has been found in Logan et al. Therefore, it is submitted that claim 28 further patentably distinguishes over Logan et al. for this additional reason.

In item 9 on pages 10-18 of the Office Action, claims 2-4, 6-14, 20-24 and 36-38 were rejected under 35 USC § 103(a) as unpatentable over Logan et al. in view of Ellis et al. In making this rejection, it was asserted that Figs. 17A-17C; column 20, lines 18-48; and column 23, line 46 to column 24, line 8 of Ellis et al. disclosed "using keywords and other signature

words based on run length (duration) and ... using the appropriate signature offsets ... to aid in the determining of a match" (Office Action, page 11, lines 14-16). While that might be true, it doesn't meet the limitations recited in the claims. The cited portion of column 20 in Ellis et al. defines "the offset of the keyword from the start of the audio segment" (column 20, lines 23-24) or "offsets relative to the keyword" (column 20, line 25). The offsets taught by Ellis et al. are used to ensure that the appropriate keywords or signatures are being compared and nothing has been cited or found to suggest that the offsets could be used in "determining a .. duration of the audio signals" being recognized. Thus, it is submitted that Ellis et al. does not teach or suggest how to modify Logan et al. to overcome the deficiencies discussed above and therefore, all of the claims patentably distinguish over Logan et al. in view of Ellis et al. for the reasons discussed above with respect to the independent claims.

Unless the only keyword is at the very end of the audio segment or one keyword is very near the beginning of the audio segment and the next keyword or signature is very near the end, none of the "offsets" will represent anything that could be used to determine the "duration of an identified recording" (claim 2, line 9), as described, for example, in paragraph [32] of the specification. It is submitted that the use of offsets to a keyword or between keywords or signatures as taught by Ellis et al. does not teach or suggest what is recited on the last 2 lines of claim 2, 36 and 38. Therefore, it is submitted that claims 2, 36, and 38, as well as claims 3-14 and 37 which depend therefrom, further patentably distinguish over Logan et al. in view of Ellis et al. for this additional reason.

In item 10 on pages 18-19 of the Office Action, claim 5 was rejected under 35 USC § 103(a) as unpatentable over Logan et al. in view of Ellis et al. and further in view of Wijnands et al. With respect to Wijnands et al., it is first noted that the patent application published as Wijnands et al. is not prior art. The PCT filing date of Wijnands et al. is January 5, 2004, while the subject application was filed October 28, 2003. The provisional application to which Wijnands et al. claims priority was filed January 6, 2003; therefore, only if the limitations recited in claim 5 are disclosed in the provisional application will claim 5 be obvious. Secondly, it is submitted that Wijnands et al. does not teach or suggest anything relevant to determining duration of audio signals that are being identified or were previously identified. Therefore, it is submitted that even if Wijnands et al. is prior art, all of the claims distinguish over the combination of Logan et al., Ellis et al. and Wijnands et al. for at least the reasons discussed above with respect to the independent claims.

**Summary**

It is submitted that the references cited by the Examiner, taken individually or in combination, do not teach or suggest the features recited in the claims. Therefore, it is submitted that claims 1-30 and 32-43 are in a condition suitable for allowance. Reconsideration of the claims and an early Notice of Allowance are earnestly solicited.

Finally, if there are any formal matters remaining after this response, the Examiner is requested to telephone the undersigned to attend to these matters.

If there are any additional fees associated with filing of this Amendment, please charge the same to our Deposit Account No. 19-3935.

Respectfully submitted,

STAAS & HALSEY LLP

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